

REMARKS

In reply to the office action mailed October 20, 2005, Applicants amended claim 1 and cancelled claim 4. Claims 1-3, 4-9, 26, and 27 are pending and under examination.

Claims 1 and 8-9 were rejected under 35 U.S.C. 102(b) as being anticipated over FR 2805162. Claim 1 has been amended to recite that the delivery system further comprises an alginate. FR 2805162 does not disclose a hand washing composition comprising an alginate as in the pending claims. Therefore applicants request that the rejection be withdrawn.

Claims 1 and 8-9 were rejected under 35 U.S.C. 103(a) as being unpatentable over Aleles (U.S. Patent No. 6,818,603). The pending claims have been amended to recite a washing composition comprising an alginate, which is not disclosed in the cited reference. Applicants therefore request the rejection be withdrawn.

Claims 1-2, and 4-6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aleles in view of George (U.S. Patent No. 6,403,543). Applicant describes and claims a composition consisting of at least a pH indicator and a delivery system comprising a pH-altering compound, the pH indicator and the pH-altering compound being selected, when combined in hand-washing action, to realize a color-change result in a pre-determined time after being combined. The delivery system further includes an alginate, which can, for example, effect the timing of the release of the pH-altering compound.

In contrast to the claimed invention, Aleles describes cleansing bars with discrete elements, including fibers, filaments, and particles, in order to achieve good grippability, exfoliating properties, and lathering effects, and there is no teaching or suggestion for color-changing compounds. Moreover, Aleles entirely fails to teach, or suggest, Applicant's invention of a pH indicator and a delivery system comprising an alginate a pH-altering compound, the indicator and compound being selected to realize a color-change result in a predetermined time after being combined.

George discloses a soap bar with articles suspended therein. (See Col. 1, lines 5-8.) Nowhere does George teach or suggest the articles (e.g., beads) could be used as a component in a delivery system including a pH-altering compound as recited in the pending claims. Without

such a teaching or suggestion, the combined references to not support a *prima facie* rejection of obviousness over the pending claims.

Applicant disagrees with the Examiner's assertion that "it would have been obvious to one of ordinary skill in the art to include the alginate beads of George to the compositions of Aleles." Nothing in Aleles teaches or suggests suspension of such beads in the disclosed composition. Furthermore, contrary to the Examiner's assertions on page 4 of the Office Action, one may not assume that "one of ordinary skill would have been motivated to combine the components to teach the claimed composition, absent a showing to the contrary." See, e.g., *Akamai Technologies, Inc. v. Cable & Wireless Internet Services, Inc.*, 344 F.3d 1186 (Fed. Cir. 2003) ("When a rejection depends on a combination of prior art references, there must be some teaching, suggestion, or motivation to combine the references."); *Teleflex, Inc. v. Ficosa North American Corp.*, 299 F.3d 1313 (Fed. Cir. 2002) ("The showing of a motivation to combine must be clear and particular, and it must be supported by actual evidence.") (citing *In re Dembiczak*, 175 F.3d 994, 999 (Fed. Cir. 1999)); *Carella v. Starlight Archery*, 804 F.2d 135 (Fed. Cir. 1986) ("Obviousness cannot be established by combining the teachings of the prior art to produce the claimed invention, absent some teaching, suggestion or incentive supporting the combination."); and *In re Gordon*, 733 F.2d 900 (Fed. Cir. 1984) ("The fact that a prior art device could be modified so as to produce the claimed device is not a basis for an obviousness rejection unless the prior art suggested the desirability of such a modification.").

The claimed elements of Applicant's disclosure are not found in the cited prior art. Moreover, there is no motivation found in the cited references to supply the missing components, nor teaching or suggestion for combining those components as claimed. Therefore, the cited references fail to render Applicant's claims obvious, and Applicant requests that the rejection be withdrawn.

Claims 1-4, 7, 9, and 26-27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morelli (U.S. Patent No. 6,916,493) in combination with Schumucker-Castner (U.S. Patent No. 6,897,253). Morelli discloses a two-part disinfecting system that includes an oxidiazable colorant. Morelli does not disclose or suggest an alginate as a component in a delivery system comprising a pH-altering compound as recited in the pending claims, nor is Morelli relied upon for such a teaching. Schumucker-Castner discloses an aqueous composition including a

Applicant : Sarah Rich
Serial No. : 10/690,582
Filed : October 23, 2003
Page : 8 of 8

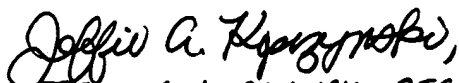
Attorney's Docket No.: 99990-054001

substantially crosslinked alkali-swellaable acrylate, which is a rheology modifier. Schumucker-Castner does not provide the teaching missing from Morelli, nor is it relied upon for such a teaching. Without such a teaching, the references in combination do not support a *prima facie* case of obviousness over the pending claims. Applicant therefore requests that the rejection be withdrawn.

Enclosed is a check for the Petition for Extension of Time fee. Please apply any other charges or credits to deposit account 06-1050, referencing attorney docket no. 99990-054001.

Respectfully submitted,

Date: APRIL 18, 2006


JEFFIE A. KOPCZYNSKI, REG. NO. 54,395, FOR
Catherine M. McCarty
Reg. No. 54,301

Fish & Richardson P.C.
225 Franklin Street
Boston, MA 02110
Telephone: (617) 542-5070
Facsimile: (617) 542-8906